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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/417,065 | 10/13/1999 | STEFAN B. EDLUND | AM9-99-066 | 6940 |
| 23334 | 7590 | 04/25/2006 | EXAMINER | |
| FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487 | | | NGUYEN, NGA B | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3628 | | |
| DATE MAILED: 04/25/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/417,065 | EDLUND ET AL. | |
| | Examiner | Art Unit | |
| | Nga B. Nguyen | 3628 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 January 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 19,25 and 31-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 19,25 and 31-47 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on January 11, 2006, which paper has been placed of record in the file.
2. Claims 19, 25, and 31-47 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 19, 25, and 31-47 have been considered but are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Ojha discloses the features missing from Seymour, Ojha discloses in response to the new bid being accepted, canceling outstanding bids at other auction sites of the plurality of auction sites where at least one of the product and service is available (column 18, lines 24-61, the buyer's outstanding bids with any sellers are automatically terminated when the seller accepted the buyer's bid price). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Seymour's to adopt the teaching of Ojha above for the purpose of eliminating the risk that the bidder fails to

pursue some of those bids that may have higher approximate price estimated by the bidder (see motivation from Ojha, column 18, lines 52-61). Moreover, Ojha discloses placing at least two new bids including a first bid for the product at a first of the plurality of auction sites and a second bid for the product at a second of the plurality of auction sites in order for at least two bids to be active on at least two of the plurality of auction sites at the same time (column 4, lines 28-48, ***the buyer may conduct a number of simultaneous negotiations with different sellers for the same product*** or even multiple products, a mechanism is provided by which negotiations with a number of sellers may be automatically terminated when the buyer reaches an agreement with any one seller, the buyer creates a mutually exclusive group by designating one of his shopping lists as such a group, when an agreement is reached on any one of the bids or quote solicitations, all other negotiations for the products in the group are automatically terminated, such a mutually exclusive group can allow a buyer to place a number of ***simultaneous bids even though he intends to make only a single purchase***). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Seymour's to adopt the teaching of Ojha above for the purpose of enabling the buyer to place at least two bids on at least two of the plurality of auction sites simultaneously, in order to increase the likelihood that at least one of the sellers can offer a price acceptable to the buyer (see motivation from Ojha, column 3, lines 15-20). Thus, the motivations to combine found in the reference itself (Ojha).

4. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19, 25, and 31-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seymour et al (hereinafter Seymour), U.S. Patent No. 6,871,190, in view of Ojha et al (hereinafter Ojha), U.S. Patent No. 6,598,026.

Regarding to claim 19, Seymour discloses a method on an information processing system for automatically purchasing products without user interaction, the method comprising:

receiving, via a user dialog, information necessary to register at a plurality of auction sites in order to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and a separate user interface thereto (figure 6B and column 8, lines 1-23, the bidder agent 36 registers at the highest rating seller site 40; column 8, lines 65-67, the unsuccessful bidding agent move to the next highest rating and repeats steps 402-516 in figures 6B, 6C, i.e. the unsuccessful bidding agent continues to register at the next highest seller site, thus the bidding agent performs registration at a plurality of seller sites; figures 3, 5 and column 6, line 40-column 7, line 13, each of seller site 40 has separate auction database and separate user interface);

receiving, via the user dialog, at least one product purchase request for at least one of a product and a service (figure 4 and column 5, line 63-column 6, line 30, the bidder agent receives purchase request from the bidder);

communicating with at least one of the plurality of auction sites using the information necessary to access each auction database through the corresponding separate user interface (figure 6A and column 7, lines 20-53; the bidder agent communicates with the plurality of seller sites);

determining if the product is available through the at least one of the plurality of auction sites, and in response to the product being available and until *at least one of a* (i) bid is accepted and (ii) time has expired for each of the at least one of the plurality of auction sites (column 7, lines 40-67, the bidder agent communicates with the plurality of

seller sites to search for the seller sites having the merchandise matching with the merchandise requested by the bidder), performing the following:

determining if a current bid from the auction site is below a maximum limit permitted, and in response to the current bid being below performing the following without further user interaction: placing a new bid for the product with the auction site; determining if new bid has been accepted (column 7, line 54-column 8, lines 23, the seller site at which the approximate price estimated by the bidder, the seller sites with an approximate price within the range specified by the bidder being assigned the highest ratings, then the bidder agent moves back to the seller site which has been assigned the highest rating to register for bidding; column 8, lines 24-43, determining if the bidder agents are accepted by the seller agent).

Seymour does not disclose in response to the new bid being accepted, canceling outstanding bids at other auction sites of the plurality of auction sites where at least one of the product and service is available or determining if time has expired for any new bids for a given auction site of the plurality of auction sites, and in response to the time expiring, canceling any outstanding bids for the given auction site; placing at least two new bids including a first bid for the product at a first of the plurality of auction sites and a second bid for the product at a second of the plurality of auction sites in order for at least two bids to be active on at least two of the plurality of auction sites at the same time. However, Ojha discloses in response to the new bid being accepted, canceling outstanding bids at other auction sites of the plurality of auction sites where at least one of the product and service is available (column 18, lines 24-61, the buyer's outstanding bids with any sellers are automatically terminated when the seller accepted the buyer's bid price). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Seymour's to adopt the teaching of Ojha

above for the purpose of eliminating the risk that the bidder fails to pursue some of those bids that may have higher approximate price estimated by the bidder. Moreover, Ojha discloses placing at least two new bids including a first bid for the product at a first of the plurality of auction sites and a second bid for the product at a second of the plurality of auction sites in order for at least two bids to be active on at least two of the plurality of auction sites at the same time (column 4, lines 28-48, ***the buyer may conduct a number of simultaneous negotiations with different sellers for the same product*** or even multiple products, a mechanism is provided by which negotiations with a number of sellers may be automatically terminated when the buyer reaches an agreement with any one seller, the buyer creates a mutually exclusive group by designating one of his shopping lists as such a group, when an agreement is reached on any one of the bids or quote solicitations, all other negotiations for the products in the group are automatically terminated, such a mutually exclusive group can allow a buyer to place a number of ***simultaneous bids even though he intends to make only a single purchase***). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Seymour's to adopt the teaching of Ojha above for the purpose of enabling the buyer to place at least two bids on at least two of the plurality of auction sites simultaneously, in order to increase the likelihood that at least one of the sellers can offer a price acceptable to the buyer.

Claims 25 is written in system that have similar the limitations found in claim 19, as discussed above, therefore are rejected by the same rationale.

Claim 31 is written in computer software that are parallel the limitations found in claim 19 as discussed above, therefore is rejected by the same rationale.

Regarding to claim 32, Seymour further discloses wherein the information necessary to register at a plurality of auction sites is stored in an auction profile

database (column 8, lines 1-10, the bidder agent communicates the predetermined data to an auction manager located at the seller site in order to register the bidder at the seller site).

Regarding to claims 33-35, Seymour further discloses wherein the information necessary to register at a plurality of auction sites includes protocol necessary to access each of the plurality of auction databases for performing a search in response to a purchase request, for placing a bid in response to a purchase request, for cancel a bid (column 5, lines 15-58, the bidder agent is intelligent agent and comprises scripts written in an SGML based language, the scripts define all the properties that a bidder may wish the agent to possess in order to act on their behalf at an auction).

Regarding to claims 36-38, Seymour further discloses wherein the protocol necessary to access each of the plurality of auction databases is based on Extended Markup Language (XML) (column 5, lines 27-30).

Regarding to claim 39, Seymour further discloses wherein at least one of the plurality of auction sites is an Internet-based web auction site (figure 3 and column 4, lines 10-30, the seller site 40 includes a computer terminal connected to the Internet).

Claims 40-47 contain similar limitations found in claims 32-39 above, therefore, are rejected by the same rationale.

Conclusion

7. Claims 19, 25, and 31-47 are rejected.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is

(571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
C/o Technology Center 3600
Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),
or
(571) 273-0325 (for informal or draft communication, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

Nguyen
NGA NGUYEN
PRIMARY EXAMINER

March 17, 2006